

**FAX TRANSMISSION****DATE:** April 28, 2006**PTO IDENTIFIER:** Application Number 10/522106  
Patent Number**Inventor:** KOGEL et al.**MESSAGE TO:** MS PCT Legal Affairs**FAX NUMBER:** 571-273-0459**FROM:** CONNOLLY BOVE LODGE & HUTZ LLP

Roberte Makowski

**PHONE:** (302) 888-6410**Attorney Dkt. #:** 12810-00067-US**PAGES (Including Cover Sheet):** 26**CONTENTS:**

Request for Withdrawal of Holding of Abandonment or in the Alternative, Petition to Revive (3 pages)  
Exhibit A – Transmittal of Power of Attorney (8 pages)  
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**CONNOLLY BOVE LODGE & HUTZ LLP**  
1007 North Orange Street, P.O. Box 2207, Wilmington, Delaware 19899  
Telephone: (302) 658-9141 Facsimile: (302) 658-5614

**RECEIVED**

28 APR 2006

Legal Staff  
International Division

PTO/SB/97 (09-04)

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U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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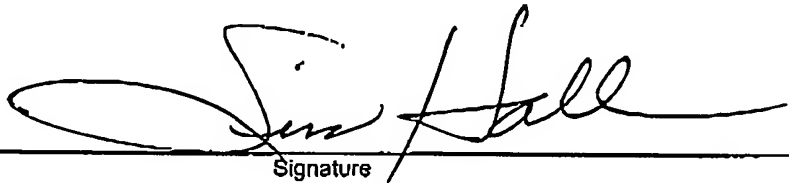
Application No.: 10/522106

Attorney Docket No.: 12810-00067-US

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office.

on April 28, 2006  
Date



Signature

Tina Hall

Typed or printed name of person signing Certificate

Registration Number, if applicable

(302) 658-9141  
Telephone Number

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Request for Withdrawal of Holding of Abandonment or in the Alternative,  
Petition to

Revive (3 pages)

Exhibit A - Transmittal of Power of Attorney (8 pages)

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Docket No. 12810-00067-US  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Karl-Heinz Kogel et al.

Application No.: 10/522106

Confirmation No.: 9243

Filed: January 24, 2005

Art Unit: N/A

For: METHOD FOR OBTAINING THE  
PATHOGENIC RESISTANCE IN PLANTS

Examiner: Not Yet Assigned

**REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT OR IN  
THE ALTERNATIVE, PETITION TO REVIVE**

MS PCT Legal Affairs  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicants respectfully request that the pending status of the above-identified application (hereinafter "the application") be reinstated, or in the alternative that the application be revived, and forwarded to the Examiner for Examination. On April 27, 2006, Applicants received a copy of a Notice of Abandonment which had been mailed by the U. S. Patent and Trademark Office to Morrison & Foerster on April 12, 2006 and forwarded to us. The Notice of Abandonment stated that a Notice to File Missing Parts was mailed on July 1, 2005 and that the application went abandoned for failure to timely file a proper reply to the Notice (Exhibit D). However, Applicants never received the Notice to File Missing Parts. This is the first time Applicants have been made aware that a Notice of Missing Parts had been sent by the U. S. Patent and Trademark Office. Morrison & Foerster filed a Request for Withdrawal as Attorney or Agent on February 25, 2005 (Exhibit C), stating that the application was being transferred to another attorney, listing James Remenick at Powell Goldstein LLP as the new attorney of record. Furthermore, Applicants filed with the U. S. Patent and Trademark Office a new Power of Attorney and change of correspondence address for the application on May 31, 2005 (Exhibit A). The new Power of Attorney was received by the Patent Office on June 3, 2005 as evidenced by

the stamped return postcard (Exhibit B). We assume that the Notice to File Missing Parts was sent to Morrison & Foerster because the Notice of Abandonment was sent to them (Exhibit D). Over four months after the Request for Withdrawal was filed by Morrison & Foerster (Exhibit C) and one month after the new Power of Attorney was filed by Applicants (Exhibit A), the Notice of Missing Parts was sent to Morrison & Foerster instead of Connolly Bove Lodge & Hutz LLP (i.e. to the wrong address). Applicants furthermore have made several submissions since that time: an Information Disclosure Statement and a copy of the International Search Report were sent on June 13, 2005; a copy of the English translation of the International Preliminary Examination Report was sent on July 14, 2005; and because Applicants had not received anything from the U. S. Patent and Trademark Office, a Status Inquiry was filed on April 10, 2006 (Exhibit E). Moreover, Applicants are still unable to access the file wrapper of the application either through private or public PAIR, even after the submission of the Power of Attorney in May 2005 (Exhibit A). The Patent Office misdirected the Notice of Missing Parts and the Notice of Abandonment (Exhibit D) to the previous law firm in charge of the application, Morrison & Foerster, who filed their Request for Withdrawal (Exhibit C) more than four months prior to the mailing of the Notice of Missing Parts, and one month after Applicants had filed a new Power of Attorney and change of correspondence address (Exhibit A).

To summarize, in February 2005 Morrison & Foerster withdrew as attorneys of record, in May 2005 Applicants appointed Connolly Bove Lodge & Hutz LLP and filed a change of correspondence address, and in July 2005 the Notice of Missing Parts was mailed to the wrong address. Thus, the misdirection of the Notice of Missing Parts in this application by the Patent Office, as evidenced by the address on the Notice of Abandonment (Exhibit D), has caused the application to now become abandoned. Again, the Applicants respectfully request that the pending status of the application be reinstated, or in the alternative, the application be revived because the total delay of the application up until the abandonment was unintentional. Again, it is clear from the record, especially in view of the filings of the Request for Withdrawal as Attorney or Agent (Exhibit D), the new Power of Attorney and change of correspondence address (Exhibits A and B), and the other filings including the Status Inquiry (Exhibit E), that the Applicants did not intend for this application to be abandoned.

Furthermore, Applicants are unable to file a proper reply to the Notice to File Missing Parts because they have never received it. Applicants respectfully request that this application be

Application No. 10/522,106

Docket No.: 12810-00067-US

reinstated and that the Notice of Missing Parts be sent to the Applicants at the address of record with a revised mailing date.

The Notice of Abandonment states that a petition to withdraw the holding of abandonment should be directed to OIPE. However, Applicants contacted OIPE upon receipt of the Notice and was directed to the PCT help desk who stated that this request should be sent to PCT Legal Affairs because it is a National stage application under 35 U.S.C. § 371. Accordingly, Applicants are submitting this request to the PCT Legal Affairs office for review.

Because of the Patent Office error in mailing the Notices to the wrong address, no fee is believed due. If there is any fee required with this paper, including the fee necessary for a petition to revive because the application was unintentionally permitted to become abandoned, the applicants respectfully request the Commissioner to charge our Deposit Account No. 03-2775, under Order No. 12810-00067-US from which the undersigned is authorized to draw.

A prompt and favorable action is earnestly solicited.

Respectfully submitted,

By 

Roberte M. D. Makowski

Registration No.: 55,421

CONNOLLY BOVE LODGE & HUTZ LLP

Correspondence Customer Number: 23416

1007 North Orange Street, P.O. Box 2207

Wilmington, Delaware 19899

(302) 888-6410 (Tel), (302) 658-5614 (Fax)

Attorney for Applicants

461634

## **EXHIBIT A**

PTO/SB/92 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Application No. (if known): 10/522106

Attorney Docket No.: 12810-00067-US

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on May 31, 2005  
Date



Signature

Tina Hall

Typed or printed name of person signing Certificate

Registration Number, If applicable

(302) 658-9141

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Transmittal of Power of Attorney (1 page)  
Power of Attorney (1 page)  
Statement Under 37 CFR 3.73 (b) (1 page)  
Copy of Assignment w/cover sheet (3 pages)  
Postcard

Ticket No. 12810-00067-US  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of:  
KOGEL et al.

Application No.: 10/522106

Conf. No.: Not Yet Assigned

Filed: January 24, 2005

Art Unit: Not Yet Assigned

---

For: METHOD FOR OBTAINING THE PATHOGENIC  
RESISTANCE IN PLANTS

---

Examiner: Not Yet Assigned


TRANSMITTAL OF POWER OF ATTORNEY

Dear Sir:


Applicants enclose herewith the executed Power Of Attorney To Prosecute Applications Before the USPTO with change of correspondence address and Statement Under 37 CFR § 3.73(b) in the above-referenced application. Because a Notice of Recordation has not yet been received, the Reel and Frame number have not been completed in the Statement Under 37 CFR § 3.73(b). However, a copy of the original assignment and cover sheet submitted with the filing of the National Stage of the above-referenced application on January 24, 2005 is enclosed.

Applicants believe no fee is due. However, if a fee is due, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 12810-00067-US, from which the undersigned is authorized to draw.

Respectfully submitted,

By   
Roberte M. D. Makowski  
Registration No.: 55,421  
CONNOLLY BOVE LODGE & HUTZ  
LLP  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, Delaware 19899  
(302) 658-9141  
(302) 658-5614 (Fax)  
Attorney for Applicants



<b>POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO</b>			
I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).			
I hereby appoint:			
<input checked="" type="checkbox"/> Practitioners associated with the Customer Number:	23416		
<b>OR</b>			
<input type="checkbox"/> Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):			
Name	Registration Number	Name	Registration Number
as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).			
Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:			
<input checked="" type="checkbox"/> The address associated with Customer Number:	23416		
<b>OR</b>			
<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	Fax
Country	Telephone		
Assignee Name and Address:			
BASF Plant Science GmbH			
67056 Ludwigshafen			
GERMANY			
A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.			
<b>SIGNATURE of Assignee of Record</b>			
The individual whose signature and title is supplied below is authorized to act on behalf of the assignee			
Signature			Date
Name	PPA Bieberbach i.V. Prebier		April 12, 2005
Title			Telephone

388181

- Director - - Authorized Officer -

PTO/SB/86 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Kogel et al.Application No./Patent No.: 10/522106 Filed/Issue Date: January 24, 2005Entitled: METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE IN PLANTSBASF Plant Science GmbH, a Corporation  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %  
in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.  
[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Roberte Makowski  
SignatureMay 31, 2005  
DateRoberte M.D. Makowski, Ph.D.  
Printed or Typed Name302 658 9141  
Telephone NumberAttorney - Reg. No. 55,421  
Title

# **RECORDATION FORM COVER SHEET** **PATENTS ONLY**

Patent and Trademark Office  
Docket No. 532622010500

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

**1. Name of conveying party(ies):**

Karl-Heinz KOGEL  
Ralph HÜCKELHOVEN  
Marco TRUJILLO

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

**3. Nature of conveyance:**

- ☒ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☐ Other:

Execution Date: July 30, 2003, July 30, 2003, July 30, 2003

**2. Name and address of receiving party(ies):**

BASF Plant Science GmbH  
Carl-Bosch-Straße 38  
67056 Ludwigshafen  
Germany

Additional name(s) & address(es) attached? ☐ Yes ☒ No

**4. Application number(s) or patent number(s):**

If this document is being filed together with a new application, the execution date of the application is: July 30, 2003

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

**5. Name and address of party to whom correspondence concerning document should be mailed:**

Barry E. Bretschneider, Reg. No. 28,055  
Morrison & Foerster LLP  
1650 Tysons Boulevard, Suite 300  
McLean, Virginia 22102

**6. Total number of applications and patents involved: 1**

**7. Total fee (37 C.F.R. § 3.41): \$40.00**

- ☐ Enclosed  
☒ Authorized to be charged to deposit account,  
Referencing Attorney Docket: 532622010500

**8. Deposit account number: 03-1952**

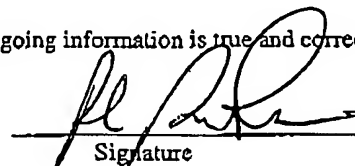
The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 that may be required by this paper, or to credit any overpayment to Deposit Account No. 03-1952.

**DO NOT USE THIS SPACE**

**9. Statement and signature.**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Barry E. Bretschneider, Reg. No. 28,055  
Name of Person Signing

  
Signature

January 24, 2005  
Date

Total number of pages comprising cover sheet, attachments and document: 3

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231

## Assignment of Application

0000053765

WHEREAS, I (WE)

*Karl-Heinz Kogel, Berggartenstr. 7, 35457 Lollar, Germany*

*Citizen of Germany*

*Ralph Hückelhoven, Glaubrechtstr. 12, 35392 Gießen, Germany*

*Citizen of Germany*

*Marco Trujillo, Heegsrauch Weg 10, 35394 Gießen, Germany*

*Citizen of Germany*

respectively, have invented certain new and useful improvements in

for which an application for Letters Patent was executed on

(Application No.

, filed

), and

WHEREAS, *BASF Plant Science GmbH* (hereinafter referred to as "ASSIGNEE"), having a place of business at *67056 Ludwigshafen, Germany*, is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent that may be granted therefore in the United States and its territorial possessions and in any and all foreign countries;

NOW, THEREFORE, in consideration of the sum of Five Dollars (\$5.00), the receipt whereof is hereby acknowledged, and for other good and valuable consideration, I (WE), by these presents do sell, assign and transfer unto said ASSIGNEE, the full and exclusive right to the said invention in the United States and its territorial possessions and in all foreign countries and the entire right, title and interest in and to any and all Letters Patent which may be granted therefor in the United States and its territorial possessions and in any and all foreign countries and in and to any and all divisions, reissues, continuations, substitutions and renewals thereof.

I (WE) hereby authorize and request the Patent Office Officials in the United States and its territorial possessions and any and all foreign countries to issue any and all of said Letters Patent, when granted, to said ASSIGNEE as the assignee of my (our) entire right, title and interest in and to the same, for the sole use and behoof of said ASSIGNEE, its (his) successors and assigns, to the full end of the term for which said Letters Patent may be granted, as fully and entirely as the same would have been held by me (us) had this Assignment and sale not been made.


FURTHER, I (WE) agree that I (WE) will communicate to said ASSIGNEE, or its (his) representatives any facts known to me (us) respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuation, substitute, renewal and reissue applications, execute all necessary assignment papers to cause any and all of said Letter Patent to be issued to said ASSIGNEE, make all rightful oaths, and, generally do everything possible to aid said ASSIGNEE, its (his) successors and assigns, to obtain and enforce proper protection for said invention in the United States and its territorial possessions and in any and all foreign countries.

The undersigned hereby grant(s) the firm of **MORRISON & FOERSTER LLP**, 1650 TYSONS BOULEVARD, SUITE 300, McLEAN, VIRGINIA 22102-3915, the power to insert on this assignment any further identification, including the application number and filing date, which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

0000053765

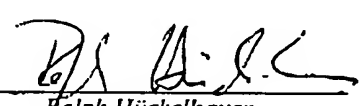
Date: 30. Juli 2003

Signature of Inventor:

  
Karl-Heinz Kogel

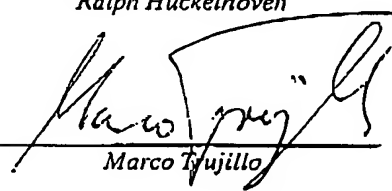
Date: 30. Juli 2003

Signature of Inventor:

  
Ralph Hückelhoven

Date: 30. Juli 2003

Signature of Inventor:

  
Marco Trujillo

Application No. 10/522,106

Docket No.: 12810-00067-US

## **EXHIBIT B**

**Attly Docket No.: 12810-00067-US**

**Inventor:** Kogel et al.

**Application No.:** 10/522106

**Filing Date:** January 24, 2005

**Title:** METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE IN PLANTS

**Documents Filed:**

Statement Under 37 CFR 3.73(b) (1 page)

Transmittal of Power of Attorney (1 page)

Power of Attorney (1 page)

Certificate of Mailing (1 page)

Copy of Assignment and cover sheet (3 pages)

Postcard



**Via:** First Class Mail

**Handling Atty:** RMM/trh/398866

**Date:** May 31, 2005

Application No. 10/522,106

Docket No.: 12810-00067-US

## **EXHIBIT C**



PTO/SB/83 (05-03)

Approved for use through 11/30/2005. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT</b>	Application Number	10/522,106
	Filing Date	January 24, 2005
	First Named Inventor	Karl-Heinz KOGL
	Art Unit	Not yet assigned
	Examiner Name	Not yet assigned
	Attorney Docket Number	532622010500

Commissioner for Patents  
To: P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

**Application is being transferred to another attorney.**

This request is being made at the request of the assignee, **BASF Plant Science GmbH**

- ☐ The correspondence address is NOT affected by this withdrawal.
- ☐ Change the correspondence address and direct all future correspondence to:

**CORRESPONDENCE ADDRESS**

☐ Customer Number  →

OR

<input checked="" type="checkbox"/> Firm or Individual Name	James Remenick (Powell Goldstein LLP)		
Address	901 New York Avenue, NW Third Floor		
City	Washington	State	DC
Country	USA		
Telephone	(202)347-0086	Fax	(202) 624-7222

- ☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number

This request is enclosed in triplicate (including any attachments).

Name **Wayne C. Jaeschke, Jr. Registration No. 38,503**

Signature 

Date **February 25, 2005**

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 25, 2005

Signature:  (Chlmin Taylor)

## **EXHIBIT D**



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/522,106		Karl-Heinz Kogel	532622010500

CONFIRMATION NO. 9243  
ABANDONMENT/TERMINATION  
LETTER

Morrison & Foerster  
1650 Tysons Boulevard, Suite 300  
McLean, VA 22102

RECEIVED

APR 14 2006

Date Mailed: 04/12/2006

MORRISON &amp; FOERSTER LLP

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 07/01/2005.

.. No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or.
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

**TRANSFERRED**  
53262-20105-00

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

---

*A copy of this notice MUST be returned with the reply.*

---

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382  
PART 3 - OFFICE COPY

## **EXHIBIT E**



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APR 10. 2006 3:15PM		AC 0956 P. 1/3	
<b>FAX TRANSMISSION</b>			
DATE: April 10, 2006			
PTO IDENTIFIER: Application Number 10/522,105 Patent Number			
Inventor: Karl-Heinz KOEHL et al.			
MESSAGE TO: U.S. Patent & Trademark Office			
FAX NUMBER: 571-273-8300			
FROM: CONNOLLY BOVE LODGE & HUTZ LLP Robert M. Mankowski			
PHONE: (302) 888-6410			
Attorney Ref. #: 12810-00067-US			
PAGES (including Cover Sheet): 3			
CONTENTS: Table Inquiry (1 page) Certificate of Transmission Under 37 CFR 1.8 (1 page) Fax Transmission Cover Sheet (1 page)			
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<p>468028</p> <p>PAGE 03 * RCV'D AT 4/10/2006 3:15:02 PM [Eastern Daylight Time] * SVR:05PTO-EPDR-020 * DUS:278300 * CID:302 661 2331 * DURATION (mins): 00:46</p>			

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**FAX TRANSMISSION**

DATE: April 10, 2006

PTO IDENTIFIER: Application Number 10/522,106  
Patent Number

Inventor: Karl-Heinz KOEHL et al.

MESSAGE TO: U.S. Patent &amp; Trademark Office

FAX NUMBER: 571-273-8300

FROM: CONNOLLY BOVE LODGE & HUTZ LLP  
Roberta Makowski

PHONE: (302) 888-6410

Attorney Dkt. #: 12810-00067-US

PAGES (Including Cover Sheet): 3

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CONNOLLY BOVE LODGE & HUTZ LLP  
1007 North Orange Street, P.O. Box 2207, Wilmington, Delaware 19899  
Telephone: (302) 658-9141 Facsimile: (302) 858-5614

**FAX TRANSMISSION****DATE:** April 10, 2006**PTO IDENTIFIER:** Application Number 10/522,106  
Patent Number**Inventor:** Karl-Heinz KOGEL et al.**MESSAGE TO:** U.S. Patent & Trademark Office**FAX NUMBER:** 571-273-8300**FROM:** CONNOLLY BOVE LODGE & HUTZ LLP

Roberte Makowski

**PHONE:** (302) 888-6410**Attorney Dkt. #:** 12810-00067-US**PAGES (Including Cover Sheet):** 3**CONTENTS:** Status Inquiry (1 page)  
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**CONNOLLY BOVE LODGE & HUTZ LLP**  
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PTO/SB/97 (09-04)

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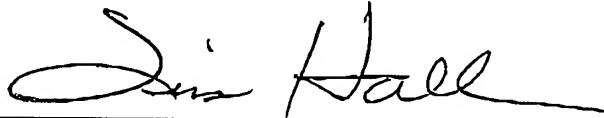
Application No.: 10/522,106

Attorney Docket No.: 12810-00067-US

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Docket No. 12810-00067-US  
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Karl-Heinz Kogel et al.

Application No.: 10/522106

Confirmation No.: Not Yet Assigned

Filed: January 24, 2005

Art Unit: N/A

For: METHOD FOR OBTAINING THE  
PATHOGENIC RESISTANCE IN PLANTS

Examiner: Not Yet Assigned

**STATUS INQUIRY**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the attorney named below be advised of the status of the above-identified application. A change of Power of Attorney was filed on May 31, 2005. Please advise us of when we might expect to receive a Notice of Change of Power of Attorney, an Official Filing Receipt, a Notice of Acceptance, a first Office Action from the Patent and Trademark Office, and when we might be able to access this application through Private Pair.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12810-00067-US, from which the undersigned is authorized to draw.

Respectfully submitted,

By Roberte Makowski  
Roberte M. D. Makowski

Registration No.: 55,421

CONNOLLY BOVE LODGE &amp; HUTZ LLP

Correspondence Customer Number: 23416

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Attorney for Applicants

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